

Amendments to the Drawings:

The attached replacement drawing sheets make changes to Figs. 1a, 1b, 2a, 2b, 3a and 3b and replaces the original sheets with Figs. 1a, 1b, 2a, 2b, 3a and 3b.

Attachment: Replacement Sheets

REMARKS

Claims 1-10 are pending in this application. By this Amendment, claims 1-10 and the drawings are amended. The amendments introduce no new matter. Claims 1-10 are amended for clarity and form. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, on page 2, asserts that Applicant's arguments regarding Unity of Invention are not persuasive because MPEP §1893.03(d) indicates that the Examiner may require the Applicant to elect the invention to which the claims shall be restricted if the Examiner finds that a national stage application lacks unity of invention. On this ground, the Examiner asserts that the Requirement is deemed proper and therefore made FINAL. The Examiner thus asserts that claims 8 and 9 are withdrawn from further consideration. For the reasons discussed below, Applicant maintains that the Requirement is improper and thus respectfully traversed the Requirement.

National stage applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to U.S. restriction/election of species practice. *See* MPEP §1893.03(d). Applicant respectfully asserts that the Requirement is improper under the rules of practice in PCT national phase applications, because the appropriate unity of invention standards have not been properly applied by the Patent Office. In PCT national phase applications, the Examiner may issue a election of species-type Requirement if no unity of invention exists. However, the Examiner must state why there is no "single general inventive concept." *See* MPEP §1893.03(d). As such, a single application may include one invention, or more than one invention if the inventions are "linked as to form a single general inventive concept." *Id.* (emphasis added). If multiple inventions are included in the application, they are deemed to be linked if there exists a "technical relationship among the inventions that involves at least one common or corresponding special technical feature." *Id.*

The May 11, 2007 Requirement only asserts that the Requirement is proper because there would be a serious burden on the Examiner to search both of Groups I and II. The September 24, 2007 Office Action only asserts the examination guidelines for issuing a Requirement for a national stage application. In this regard, both the May 11, 2007 Requirement and the September 24, 2007 Office Action fail to meet the standard for issuing a Requirement for a national stage application because the Examiner fails to state why there is no "single general inventive concept."

By virtue of the fact that claims 8 and 9 depend from claim 1, there exists a special technical relationship between claims 8 and 9 and claim 1.

Because the Examiner has not properly demonstrated an absence of unity of invention under the rules, the Requirement is improper. Reconsideration and withdrawal of the Requirement are respectfully requested.

In any event, rejoinder of the non-elected claims will be required, and thus the Requirement should be withdrawn. Claims 8 and 9 depend from generic claim 1. Rejoinder will be permitted when a generic claim is found allowable and the withdrawn claims depends from or otherwise includes all the limitations of an allowed generic claim.

The Office Action, on page 2, objects to the drawings for failing to provide a legend for Figs. 1a, 1b, 2a, 2b, 3a and 3b. The drawings are amended to obviate the objection. Withdrawal of the objection is respectfully requested.

The Office Action, on page 3, objects to the drawings for failing to show every feature recited in the claims.

The Office Action asserts that the feature "a gear" recited in line 6 of claim 1 is not shown. The Examiner's attention is directed to page 19, line 29 through page 20, line 2, of the specification, which discloses that the worm wheel 11 with its worm wheel teeth 111 forms, together with the worm 10 and its worm teeth 101, a gear which is connected in series with the

clutch unit, the gear and the clutch unit being arranged in a possible torque flux about the axis 4 between the sighting unit 1 and the reference base 2. Thus, the gear in this exemplary embodiment is the functional unit formed by the worm wheel 11 and the worm 10, and is adequately depicted.

The Office Action asserts that the feature "a clutch unit" recited in line 8 of claim 1 is not shown. The Examiner's attention is directed to page 19, lines 10-18, of the specification, which discloses that the electromagnet 5 with its electromagnet surface 9 and the brake disc 6 with its brake disc surface Z together with the spring element 8, the screws 25, 26 and a part of the worm wheel 11, form an electrically externally switchable clutch unit, by means of which, depending on a voltage, a torque flux can be substantially interrupted or a maximum transmittable torque can be varied. Thus, the clutch unit, in this exemplary embodiment is the functional unit formed by the electromagnet 5 with its electromagnet surface 9 and the brake disc 6 with its brake disc surface 7, and is adequately depicted.

The Office Action asserts that the feature "at least two individual electromagnets" recited in line 2 of claim 4 is not shown. The Examiner's attention is directed to page 10, lines 12-17, of the specification, which discloses that it is of course possible for the electromagnet to be in the form of an arrangement of a plurality of individual magnets. Further developments of an electrically externally switchable clutch comprising an electromagnet are known from the prior art. Furthermore, the Patent Office guidelines to Examiners provides that only features that are necessary for a proper understanding of the claims must be shown in the drawings. See, for example, MPEP §608.02. A showing of two individual electromagnets as recited in claim 4 is not necessary for a proper understanding of the claim. In other words, one of ordinary skill in the art would readily understand the scope of claim 4.

For at least the above reasons, withdrawal of the objection to the drawings is respectfully requested.

The Office Action, on page 3, objects to the specification for making reference to a claim. The specification is amended to obviate the objection. Withdrawal of the objection is respectfully requested.

The Office Action, on page 4, objects to the specification for failing to provide proper antecedent basis for at least two individual electromagnets. As noted above, these features are discussed at least on page 10, lines 12-17, of the specification, which discloses that it is of course possible for the electromagnet to be in the form of an arrangement of a plurality of individual magnets. Moreover, the Examiner's attention is directed to MPEP §2173.05(e), which states: The mere fact that a term or phrase used in the claim has no antecedent basis in the specification disclosure does not mean, necessarily, that the term or phrase is indefinite. There is no requirement that the words in the claim must match those used in the specification disclosure. Applicants are given a great deal of latitude in how they choose to define their invention so long as the terms and phrases used define the invention with a reasonable degree of clarity and precision. For at least these reasons, withdrawal of the objection to the specification as failing to provide proper antecedent basis for the claimed subject matter is respectfully requested.

The Office Action, on page 4, rejects claims 1-7 and 10 under 35 U.S.C. §102(b) over U.S. Patent No. 2,133, 241 to Baker. This rejection is respectfully traversed.

Baker discloses a reference base (27a & 27b), at least one bearing (24a and page 3, lines 63 through 68) for mounting a housing (22) containing two light housings (1, 2), wherein the housing (22) is rotatable relative to the reference base (Fig. 5) about a first vertical axis (Fig. 5). This first vertical axis about which the housing (22) can be rotated is defined by the vertical shaft (page 3, right column, line 37-38). Hence, the housing (22) may

be shifted in the horizontal plane around said vertical axis (page 3, right column, lines 53-54).

The housing (22) contains two sub-housings, i.e. a first light housing (1) and a second light housing (2) (page 3 left column, line 71 through right column, line 6). These two spaced housings (1 and 2) are mounted for pivotal movement about their axes (1a and 2a) (page 1, right column, line 35-38). These vertical axes (1a and 1 b) are spaced apart from each other (Fig. 1) and they are not identical to the first vertical axis about which the housing (22) can be rotated (Fig. 3 and Fig. 5), since the vertical axis of rotation of the housing (22) passes through the line of observation (11b) (page 3, right column, lines 15-20). The line of observation (11b) is defined as the horizontal line between the vertical axes (1a and 1 b). Accordingly, it is obvious that the axis of rotation of the first light housing (1), the second light housing (2) and the housing (22) are three different vertical axes that cannot be co-linear according to the teaching of Baker.

A gear (6a, 6b) and a clutch unit are connected in series between the housing (22) and the light housings (1, 2), not between the housing (22) and the reference base (27a, 27b). Magnets (1a, 1b) are arranged to engage the gears (6a, 6b) (page 2, right column, lines 3-19). The axis of rotation of the gear (6, 6a, 6b, 6c) is a horizontal axis (Fig. 1). The gears (6a, 6b) and the clutch are spaced apart from the light housings (1, 2). Importantly, the horizontal axis of the gear (6a, 6b) and the clutch cannot be identical with the vertical axes of rotation of the light housings (1, 2).

It is to be noted that Baker describes a reversible clutch arrangement for reversing the direction of rotation (page 2. left column, lines 3 to 14). Such a reverse clutch is not designed for at least one of limiting or interrupting the torque flux. This reverse clutch only allows the torque flux to be reversed. Interrupting the torque flux would be against the teaching of Baker.

Claim 1 recites, among other features, a sighting unit that is rotatable about an axis; gear and the clutch unit being connected in series between the sighting unit and the reference base; a clutch unit by which a torque flux about the axis can be at least one of limited or interrupted; clutch unit has at least one electromagnet arranged around the axis for generating a magnetic field; and the torque flux around the axis can be at least one of limited or interrupted by action of the magnetic field. Baker, as discussed above, neither teaches, nor can it reasonably be considered to have suggested, at least this combination of features. The light source of Baker cannot reasonably be considered to correspond to a sighting unit. Baker's gears and clutches are arranged between the light housings (1, 2) and the housing (22), not between a sighting unit and a reference base. Baker does not disclose a clutch unit by means of which a torque flux about the axis can be at least one of limited or interrupted. Baker's gear and clutch arrangement is for reversing the direction of rotation, not for interrupting the torque flux. Baker does not disclose a clutch unit with at least one electromagnet for generating a magnetic field, wherein the at least one electromagnet is arranged around the axis of rotation of the sighting unit. Baker's electromagnets are arranged around a horizontal gear axis, which is clearly not identical with the vertical axis of rotation of the light housings. Because Baker discloses a magnetic reverse gear and clutch arrangement, and not a clutch for interrupting the torque flux, Baker's arrangement does not allow the torque flux around the axis to be at least one of limited or interrupted by action of the magnetic field.

For at least these reasons, Baker cannot reasonably be considered to teach, or to have suggested the combination of all of the features positively recited in claim 1. Further, claims 2-7 and 10 also are not taught, nor would they have been suggested, by Baker for at least the respective dependence of these claims directly or indirectly on claim 1, as well as for the additional subject matter each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-7 and 10 are respectfully requested.

Rejoinder and allowance of claims 8 and 9 are respectfully requested, as these claims depend from allowable claim 1.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-10 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Replacement Sheets (Figs. 1a, 1b, 2a, 2b, 3a and 3b)
Petition for Extension of Time

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